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January 6, 1993

TO: Lowell P. Braxton, Associate Director, Mining

FROM: D. Wayne Hedberg & Holland Shepherd, Minerals Staff *DWH, HOS*

RE: Update on Pagano Clay Project Status, Summary of BLM & State Lands Administrative & Enforcement Actions, Pagano Clay Estate, M/015/062, Emery County, Utah

Pursuant to your recent E-Mail inquiry and request for information, the following summary is prepared regarding the Pagano Clay Project. You requested an update on the status of legal or administrative action by the BLM and other DNR agencies with respect to the Pagano site disturbances.

DIVISION OF STATE LANDS & FORESTRY:

A certified letter was sent to Harold Marston by DSL&F on December 3, 1992. At issue was an easement application #191 (road right of way). The road easement in question is located in section 16, T15S, R11E, SLBM, Carbon County, Utah. The application went out for public comment and objections were received from Emery Industrial Resources. They claimed that prior to road upgrading activities conducted by East Carbon Constructors during 1992, the road was only a "two track" trail.

DSL&F informed Mr. Marston that there was other unauthorized disturbance on State land that was not approved (overburden stockpiled). Subsequently, the graded roads and pile of overburden were found in trespass and the easement approval process was suspended with a cancellation possible. An increase in easement fees and treble damages was assessed at \$4760. This was reduced by \$924.45 (which had been received with original easement application), leaving a total due of \$3835.55. A January 8, 1992 deadline for DSL&F receipt of trespass damages was required.

Other requirements outlined in the December 3/92 letter include:

- * completion of cultural resource survey

- * removal of stockpiled overburden within 30 days, or be subject to additional charges for removal and reclamation of land affected.
- * reclamation of any disturbed areas not included in the proposed 33-ft wide right of way, pursuant to DOGM specifications and timetables. If road right of way isn't approved by DSL&F, then it must be removed and rehabilitated.

DIVISION OF WATER RIGHTS:

Holland Shepherd spoke with Mr. Bill Warmick of DWR (late November or early December/92) regarding the restoration work performed by East Carbon Constructors on the disturbed areas along the Price River. Mr. Warmick indicated that DWR was satisfied with the work performed to date by the contractor.

BUREAU OF LAND MANAGEMENT:

Wayne Hedberg spoke with Mr. Mark Mackewitz of the Price River Resource Area on January 6, 1992. The following actions have been taken by the BLM against East Carbon Constructors (principal contractor for ECDC).

- * A notice of trespass was issued to East Carbon Constructors on unauthorized road work conducted on a county road crossing BLM lands. A \$1500 settlement fee was paid by ECC. A \$17,000 surety bond was posted by the parent company of ECC (Bannock Paving??) in December 1992 to cover the anticipated costs for reseeding, mulching and fertilization of @18 disturbed acres associated with the road widening activities. Most of the regrading (dirt work) had been performed by ECC before winter weather stopped reclamation activities for the season.

Mr. Mackewitz indicated that the operator also failed to comply with local Emery County ordinances which required a permit(s) prior to commencement of the county road development activity. He indicated that the county eventually dropped its attempts to get the operator to comply (reasons unknown). Mr. Mackewitz stated that the BLM has an extensive file on this issue and that they would likely support any actions this Division may deem appropriate 100+ percent. He indicated this operator was very difficult to work with and wished us "good luck" in our interactions.

The Army Corps of Engineers has asked us to update them on the work the operator has performed to repair damage to the stream channel.